REMARKS

In response to the restriction requirement in the Office Action mailed April 7, 2006, the Applicants respectfully traverse the restriction requirement, but provisionally elect for prosecution in this application Claims 34 and 36 directed to a composition for reducing the risk or progression of diabetic neuropathy.

The Examiner asserts that the application contains claims defining inventions which are distinct from one another. In particular, the Examiner acknowledges that the inventions defined by the claims of Groups I, III, V, VI (Applicants believe that the Examiner means VII, not VI) and IX and the inventions defined by the claims of Groups II, IV, VI, VIII and X are related as product and process of use, but contends that the claimed product and process of use are distinct because the risk or progression of Alzheimer's disease can be reduced by using a materially different product, such as donexepil, etc. The Examiner also contends that the risk or progression of diabetic neuropathy can be reduced by using a materially different product, e.g., gabapentin or tramadol. The Examiner further contends that the risk or progression of retinopathic disease can also be reduced by using a materially different product, e.g., via laser treatment. The Examiner similarly contends that the reduction of apoptosis or neuronal cell death can be reduced using a materially different product, e.g., neuroprotective agents such as lithium, and further contends that the treatment of elevated homocysteine levels can be treated using a materially different product, e.g., prescription multivitamins.

The Examiner further contends that the inventions defined by the claims of Groups I, III, VI (the Applicants believe the Examiner meant to include here Group V instead of Group VI), VII and IX are unrelated. The Examiner contends that the inventions defined by these groups of claims have different modes of operation, such as in the treatment of Alzheimer's disease vs. diabetic neuropathy, etc.

It is respectfully urged that the inventions defined by the claims of all of the groups are so related that they should all be included in a single patent. This is submitted to be evident by the fact that each of the claims require the application of dextromethorphan as an

essential element. Thus, all of the claims pending in the application relate to the same invention. Furthermore, the classifications which the Examiner listed for each group of claims on pages 2 and 3 of the Office Action are all the same (Class 514, Subclasses 185, 249 and 289). Accordingly, it is respectfully urged that the claims of all of the groups should be examined together and be covered by a single patent.

Furthermore, the claims of Group II (i.e., Claims 33 and 35), defining a method of reducing the risk or progression of Alzheimer's disease or dementia, respectively incorporate the compositions for reducing the risk or progression of Alzheimer's disease or dementia defined by Claims 30 and 32 (i.e., the Group I claims), and incorporate all of the limitations of those claims from which they depend.

Similarly, the claims of Group IV (i.e., Claims 35 and 37), defining a method of reducing the risk or progression of diabetic neuropathy, respectively incorporate the compositions for reducing the risk or progression of diabetic neuropathy defined by Claims 34 and 36 (i.e., the provisionally elected Group III claims), and incorporate all of the limitations of those claims from which they depend.

Additionally, the claims of Group VI (i.e., Claims 39 and 41), defining a method of reducing the risk or progression of retinopathic disease, respectively incorporate the compositions for reducing the risk or progression of retinopathic disease defined by Claims 38 and 40 (i.e., the Group V claims), and incorporate all of the limitations of those claims from which they depend.

Also, the claims of Group VIII (i.e., Claims 43 and 45), defining a method of reducing or eliminating apoptosis or neuronal cell death, respectively incorporate the compositions for reducing or eliminating apoptosis or neuronal cell death defined by Claims 42 and 44 (i.e., the Group VII claims), and incorporate all of the limitations of those claims from which they depend.

Finally, the method for the treatment of elevated homocysteine defined by Claims 47 and 49 of Group X incorporate the composition for the treatment of elevated homocysteine

defined by Claim 46 of Group IX and incorporate all of the limitations of Claim 46 from which they directly or indirectly depend, and the method for the treatment of elevated homocysteine defined by Claims 52 and 53 of Group X incorporate the composition for the treatment of elevated homocysteine defined by Claim 50 of Group IX and thus incorporate all of the limitations of Claim 50 from which they directly or indirectly depend.

It is further noted that on Page 2 of the Office Action, it is believed that the Examiner intended to include in Group I Claims 30 and 32, not Claims 30 and 31, as Claim 31 is a method claim and included in Group II.

Thus, it is respectfully urged that Claim 30-53 which are pending in the application are directed to the same subject matter, which subject matter is so interrelated and specific to one another that the inventions defined by the claims should be examined together and included in a single patent. Furthermore, it is respectfully urged that no additional search is required if the non-elected claims are examined with the elected claims.

In view of the foregoing remarks, withdrawal of the restriction requirement and consideration on the merits of Claims 30-53 or, if the restriction requirement is maintained, consideration of the provisionally elected Claims 34 and 36, is respectfully solicited. In accordance with 37 CFR 1.143, the Applicants are including an election of the invention to be examined even though the requirement is traversed. Consequently, Claims 31-33, 35 and 37-53 are herewith provisionally withdrawn from consideration if the Examiner maintains the restriction requirement.

Respectfully submitted,

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